



July 17, 2006

Federal Trade Commission/Office of the Secretary, Room H-135 (Annex W)
Re: Business Opportunity Rule, R511993
600 Pennsylvania Avenue, NW
Washington, DC 20580

RE: Business Opportunity Rule, R511993

Dear Sir or Madam:

We write this letter out of concern over the potential impact the New Business Opportunity Rule R511993 would have on the direct selling industry, and on Gano Excel (USA), Inc. in particular. We understand and appreciate the motive behind the FTC's efforts to protect the public from fraudulent operations. However, the proposed rule, as it presently stands, penalizes law-abiding operations, such as Gano Excel, by making it more challenging for these businesses to continue operating and by interfering with the businesses many of our affiliates have come to rely upon to support their families.

Gano Excel, a member of the Direct Selling Association, was founded in Malaysia in 1995, and opened its doors in the United States in 2004. We market dietary supplements, personal care, and beauty products. We have more than 20,000 active affiliates in the United States and Puerto Rico and our yearly sales average \$10,000,000.

Of special concern is the unfeasibility of some of the planned requirements. Many seem to have been proposed with the purpose of incapacitating an industry, rather than protecting the consumer.

Such an example is the very impractical seven-day waiting period to enroll new affiliates. If passed, this waiting period will not only create onerous administrative challenges, but it will automatically evoke, in the public, a sense of distrust that will unquestionably hinder our affiliates' ability to develop their businesses. With the exception of firearm transactions, traditional retailers do not require a waiting period before a buyer is allowed to purchase an item, regardless of the item's purchase price. No one requires an individual willing to invest into the fluctuating stock market, on a new home, or on a new vehicle to wait for seven days before executing their investment. Gano Excel's Sales Kit costs only \$24.99. To help protect the buyer, Gano Excel, like most companies in the industry and all members of the Direct Selling Association, already has in place a buy back policy which offers a 90% refund on all products, including sales kits purchased within the last twelve months. *Requiring* a waiting period is unfair to the seller and to the purchaser himself.

Gano Excel is also opposed to the FTC's proposal to eliminate the \$500 threshold that currently determines whether a business opportunity falls under the franchise rule or under the regulation authority of the FTC. By eliminating this threshold, the FTC obligates all direct selling companies to comply with the extensive requirements of their proposed rule. Most of these requirements are more appropriate for larger business opportunities that require higher investments.

The proposed rule seeks to eliminate fraudulent practices by requiring earnings disclosures for any claims made by sellers of business opportunities. The rule does not take into consideration that fraudulent opportunities, the ones the FTC is targeting, will easily provide inaccurate data to prospective purchasers. Certainly, genuine opportunities, such as Gano Excel, will make every effort to comply with the elaborate requests, as challenging as these may be.

The two other points that we would like to focus on at this time are the required disclosures of: 1) all legal action in which the company was a subject; and 2) references of prior purchasers of the opportunity. The first is unfair as it penalizes companies for being a *subject* of legal action regardless of innocence. The second makes the company susceptible to additional legal action (which must be then disclosed) and its affiliates to safety risks and privacy violations.

Requiring a company to disclose all prior litigation or legal action brought against it or any of its officers, directors, managers, or affiliates within the last 10 years, without regard to innocence, is unreasonable and unfair. In this day and age, as unfortunate as it is, anyone can sue an individual or company for almost anything. If a company was found innocent on charges unrelated to the business opportunity, it would be discriminatory to force the company to disclose any litigation information. Furthermore, there is absolutely no way of knowing whether a company's affiliate members have ever been involved in any legal action. It would be difficult to even begin collecting such data without violating numerous privacy rights.

If such a regulation were to be put in effect, it should encompass **all** businesses that offer products or services to consumers. A better alternative would be to require companies to disclose litigation information relevant to the opportunity being offered, if the company was found at fault. This alternative is more in line with protecting the consumer, than with impairing the operations of the seller of the opportunity.

The second and perhaps most critical point calls for providing references of prior purchasers of the opportunity. The proposed rule requires the disclosure of either 10 purchasers nearest to the prospective buyer or all prior buyers of the opportunity *nationwide* within the past 3 years. This requirement creates a potential violation of privacy laws and sets the stage for security risks. People are very concerned about the release of their information, especially with identity theft being so prevalent. Gano Excel respects these concerns and is conscious of the potential liability risks. Not only can releasing information without consent easily result in privacy lawsuits, but it can place Gano Excel affiliates in danger of predators. Moreover, you are unfairly asking our industry to relinquish all control of our databases - the foundations of our organizations - by making contact information readily available to everyone, including our competitors and the fraudulent business opportunities from which the FTC is trying to protect consumers. At Gano Excel, we consider our database to be our principal proprietary information and by policy, unauthorized use of this information is actionable in a court of law. Your proposed rule would completely decimate our ability to protect our viability as a business. Prospective purchasers will be hesitant or unwilling to affiliate themselves with any company that will release their information without their consent. Gano Excel is willing to provide references when warranted. However, to protect our interests and those of our loyal affiliates, it is important that we maintain a considerable degree of control over the information that is released.

The direct selling industry has worked long and hard to maintain the respect of the public. Trade and industry organizations ensure that its members comply with legal regulations. Courses in direct selling and network marketing are now available in prestigious universities. Americans of diverse means and levels of education find opportunities in this industry that are not available to them elsewhere. The industry gives parents nationwide the opportunity to work out of their home and spend more quality time with their children; an opportunity most traditional jobs do not offer. Clearly more positive than negative has come from this industry. Do not allow a handful of rotten opportunities to ruin the operations for the hundreds of legitimate ones.

Gano Excel respects and appreciates the FTC's responsibility to the public. The agency's efforts are of great value to all American consumers. However, the proposed Business Opportunity Rule R511993, in its current format, has many drawbacks that could potentially damage our business operations and affect the earnings our affiliates have come to rely upon. Certainly, the FTC and legitimate direct sellers can collaborate to identify other, more practical alternatives to protect the American consumer. Gano Excel is ready to cooperate in this endeavor.

Thank you for your time and consideration.

Respectfully,

Joven Cabasag
Chief Operating Officer
Gano Excel USA, Inc.